

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DENNIS SANDELL OTT,

Petitioner, No. CIV S-99-0946 DFL GGH P

VS.

ANTHONY NEWLAND, Warden,

Respondent. **ORDER**

Petitioner, a state prisoner, sought relief pursuant to 28 U.S.C. § 2254. Petitioner paid the filing fee. On February 2, 2004, judgment was entered. On March 22, 2005, the court denied petitioner's motion for relief from judgment. On April 19, 2005, petitioner filed notice of appeal from this order. On May 2, 2005, petitioner filed a motion for leave to proceed in forma pauperis on appeal.

The district court found that petitioner's motion for relief from judgment was without merit. Because the motion was without merit and considering that judgment was entered on February 2, 2004, the court finds that petitioner's appeal is not taken in good faith. Accordingly, the motion to proceed in forma pauperis on appeal is denied. 28 U.S.C. § 1915(a)(3)(an appeal may not be taken in forma pauperis if the trial court certifies that it is not taken in good faith).

1 Accordingly, IT IS HEREBY ORDERED that:

2 1. Petitioner's appeal is not taken in good faith;

3 2. Petitioner's May 2, 2005, motion for leave to proceed in forma pauperis on

4 appeal is denied.

5 DATED: 6/7/05

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7 /s/ Gregory G. Hollows

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 GREGORY G. HOLLOWWS
9 UNITED STATES MAGISTRATE JUDGE

10 GGH:kj
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